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Order 2004-8-6

Served: August 11, 2004



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 11th day of August, 2004

Applications of

CLAY LACY AVIATION, INC.

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign charter
air transportation of persons, property and mail

Dockets OST-04-17451 - 4
and
OST-04-17452 - 7

FINAL ORDER

By Order 2004-7-25, issued July 26, 2004, we directed all interested persons to show cause why we should not make final our tentative findings and conclusions stated in it and award certificates of public convenience and necessity to Clay Lacy Aviation, Inc. (CLA) authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail. Interested persons were given 14 days to file objections to the order.

No objections were received within the time period provided.

ACCORDINGLY,

1. We find that Clay Lacy Aviation, Inc., is fit, willing, and able to engage in interstate and foreign charter air transportation of persons, property, and mail.
2. We issue a certificate of public convenience and necessity to Clay Lacy Aviation, Inc., to engage in interstate charter air transportation in the form attached.¹
3. We direct that, should Clay Lacy Aviation, Inc., want to operate more than three large aircraft, it must first provide the Department with at least 45-days' notice and demonstrate its fitness for such expansion.²

¹ By this order, we issue only an interstate charter certificate to CLA. Issuance of a foreign charter certificate to the company is subject to Presidential review under 49 U.S.C. 41307 and will be handled in a separate order.

² A "large" aircraft is any aircraft originally designed to have a maximum passenger capacity of more than 60 seats or a payload of more than 18,000 pounds, such as the Boeing Business Jet that CLA proposes to operate.

4. We direct Clay Lacy Aviation, Inc., to submit to the Air Carrier Fitness Division a first-year progress report within 45 days following the end of its first year of certificated operations.³

5. We will serve a copy of this order on the persons listed in Attachment A.

By:

KARAN K. BHATIA
Assistant Secretary
for Aviation and International Affairs

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

³ The report shall include a description of CLA's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements (including a balance sheet at the end of its first year of flight operations and a 12-month income statement ending that same date), and a listing of current senior management and key technical personnel.



**Certificate of Public Convenience and Necessity
for
Interstate Charter Air Transportation**

This Certifies That

CLAY LACY AVIATION, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate charter air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

*Issued by Order 2004-8-6
On August 11, 2004
Effective on (See Attached)*

*Karan K. Bhatia
Assistant Secretary
for Aviation and International Affairs*



Terms, Conditions, and Limitations

CLAY LACY AVIATION, INC.

is authorized to engage in interstate charter air transportation of persons, property and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), issue tickets for the operations proposed under this certificate, or enter into contracts with charter operators, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) The holder's authority to operate under this certificate is limited to operations conducted under Part 135 of the Federal Aviation Regulations.

- (4) *The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (5) *The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all U.S. Government requirements concerning security.*
- (6) *The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (7) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (8) *The holder is not authorized to engage in air transportation operations between points within the State of Alaska.*
- (9) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*
- (10) *In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*

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